

### **REMARKS**

The final Office Action of May 27, 2008, has been reviewed and these remarks are responsive thereto. Claims 1, 6, 8, 9, 11, 15-17, 21, 23, 28, and 29, have been amended, claims 30-33 have been canceled without prejudice or disclaimer, and new claims 34-53 have been added. No new matter has been added. Claims 1, 3-9, 11-21, 23-26, 28, 29, and 34-53 remain pending in this application. Reconsideration and allowance of the instant application are respectfully requested.

#### ***Rejections Under 35 U.S.C. § 102***

Claims 1, 3-9, 11-21, 23-26 and 28-33 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Appl. Pub. No. 2003/0026424 (McGarrahan). Applicants traverse this rejection for at least the following reasons.

#### **Claims 1, 3-8, 16-20, and 28**

Independent claim 1, as amended, is directed to an apparatus configured to “provide a user interface for selection of the primary program data, and upon selection, retrieve the associated secondary program data for display.” McGarrahan does not disclose or suggest these features of amended claim 1. McGarrahan relates to a system for distributing movies, advertising and trailers to a set-top box via a communications network. See Abstract. The set-top box is pre-populated with content and is updated as new release content becomes available. See para. [0048]. The distribution of content in McGarrahan is performed using the full bandwidth available on off hours, the excess spectrum available during normal broadcasts, or a combination thereof. See para. [0048]. McGarrahan also describes that the secondary program data (i.e., advertising and trailers) will be displayed before, in pauses, and at the end of the primary program data. See para. [0048]. However, since McGarrahan only discloses displaying secondary program data before, during, or after the displaying of primary program data, it is clear that McGarrahan does not disclose displaying movie previews for movies that are already stored in the set-top box. Thus, McGarrahan’s trailers would not be trailers for the primary program data that it is being shown with, but would only be trailers for other movies, such as movies soon to be released. Although paragraph [0050] of McGarrahan describes a user

interface screen listing currently cached content with a preview option, Applicants submit that it is clear from the context of McGarrah that the only associated secondary program data it discloses are previews of films which are not yet released, rather than previews for films stored at the set-top box and available for viewing. Therefore, since McGarrah's secondary program data is not available for selection at the time it is displayed, McGarrah does not disclose "provid[ing] a user interface for selection of the primary program data, and upon selection, retriev[ing] the associated secondary program data for display," as recited in claim 1.

Furthermore, since McGarrah's secondary program data does not refer to content that is already stored in the set-top box, McGarrah also does not disclose wherein the primary program data and the secondary program data is received "at approximately the same time," as recited in claim 1. Rather, as described above, in McGarrah, the secondary program data are sent during off hours, and are selected to be displayed with primary program data as appropriate for the user, not because they are associated with the primary program data.

For at least the reasons stated above, Applicants submit that independent claim 1 is not anticipated by McGarrah.

Independent claims 16 and 28 are directed respectively to a method and computer-readable media reciting similar features to those discussed above regarding claim 1. Thus, for similar reasons to those discussed regarding claim 1, independent claims 16 and 28 are also not anticipated by McGarrah. Claims 3-8 and 17-20 are not anticipated by McGarrah for at least the same reasons as their respective base claims, as well as based on the additional features recited therein.

#### Claims 9, 11-15, 21, 23-26, and 29

Independent claim 9 recites an apparatus configured to "provide a user interface for selection of the stored primary program data, and upon the selection, retrieve the associated secondary program data for display." Thus, claim 9 is not anticipated by McGarrah for similar reasons to those discussed above in regard to claim 1.

Furthermore, independent claim 9 recites an apparatus configured to "run a software agent arranged to identify and copy one or more portions of the primary program data that have been earmarked" and to "store a copy of said earmarked data as an associated secondary program data

file.” The Office Action alleges that McGarrahan teaches this feature in paragraph [0038]. Applicants respectfully disagree. Specifically, the Office Action argues on page 2 that McGarrahan teaches tagging of content with corresponding advertisements/trailers. However, McGarrahan only discloses that the content is tagged so that the set top box can grab and play the content as requested. See para. [0038]. McGarrahan never indicates that the set-top box would copy the tagged content or stores a copy of the tagged content as an associated secondary program data file. Therefore, McGarrahan does not disclose or suggest, “run[ning] a software agent arranged to identify and copy one or more portions of the primary program data that have been earmarked,” and “stor[ing] a copy of said earmarked data as an associated secondary program data file,” as recited in claim 9.

For at least the reasons stated above, Applicants submit that independent claim 9 is not anticipated by McGarrahan. Independent claims 21 and 29 are directed respectively to a method and computer-readable media reciting similar features to those discussed above regarding claim 9. Thus, for similar reasons to those discussed regarding claim 9, independent claims 21 and 29 are also not anticipated by McGarrahan. Claims 11-15 and 23-26 are not anticipated by McGarrahan for at least the same reasons as their respective base claims, as well as based on the additional features recited therein.

### ***New Claims***

Applicants have added new dependent claims 34-53 to more fully claim the invention. No new matter has been added. Each of claims 34-53 is allowable over the cited art for at least the same reasons as their respective base claims, as well as based on the additional features recited therein. For example, claims 38 and 46 further recite, “record[ing] the primary program data and the secondary program data according to a user’s instructions,” and “display[ing] a list of the recorded secondary program data to the user.” In contrast, McGarrahan only describes a system in which pay-per-view data is automatically preloaded onto a set-top box and user instructions are not required. Thus, McGarrahan also fails to disclose these additional features.

**Conclusion**

Based on the foregoing, Applicants respectfully submit that the application is in condition for allowance and a notice to that effect is earnestly solicited. Should the Examiner believe that anything further is desirable in order to place the application in even better form for allowance, the Examiner is respectfully urged to contact Applicants' undersigned representative at the below-listed number.

Respectfully submitted,

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